

# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

**Symbols in proposed rule text.** Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

## TITLE 4. AGRICULTURE

### PART 2. TEXAS ANIMAL HEALTH COMMISSION

#### CHAPTER 38. TRICHOMONIASIS

##### 4 TAC §38.6

The Texas Animal Health Commission (commission) proposes amendments to §38.6, concerning Official Trichomoniasis Tests, in Chapter 38, which is entitled "Trichomoniasis". The purpose of the amendments is to approve a new official Trichomoniasis test.

The Bovine Trich Working Group (TWG) met on April 11, 2017, to evaluate the effectiveness of current rules. The TWG discussed the program overview to date, the management of infected herds, entry requirements, and the need for possible revisions to the program.

The TWG recommended that the commission propose rules to authorize an additional official test. Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) is in the process of implementing an enhanced Trichomoniasis testing technology for the Polymerase Chain Reaction (PCR) test. PCR is currently accepted as an official test or an official confirmatory test for Trichomoniasis. TVMDL's Direct Sample qPCR is an enhanced testing technology using PCR. Unlike the current PCR, the qPCR test does not require the sample to be incubated or placed in an InPouch. The TWG also recommended that the deadline for submitting samples to an approved laboratory remain at 96 hours, but encouraged submission of samples to be accomplished within 48 hours.

Further, the proposal adds the term InPouch to the culture testing requirement. This proposed addition will ensure the sample is properly collected and submitted for testing.

##### FISCAL NOTE

Ms. Larissa Schmidt, Chief of Staff, Texas Animal Health Commission, has determined for the first five-year period the rule is in effect, there will be no significant additional fiscal implications for state or local government as a result of enforcing or administering the rule. An Economic Impact Statement (EIS) is required if the proposed rule has an adverse economic effect on small businesses. The agency has evaluated the requirements and determined that there is not an adverse economic impact and, therefore, there is no need to do an EIS. Implementation of this rule poses no significant fiscal impact on small or micro-businesses, or to individuals.

##### PUBLIC BENEFIT NOTE

Ms. Schmidt has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be a more efficient test that is easier to collect and submit in a timely manner.

##### LOCAL EMPLOYMENT IMPACT STATEMENT

In accordance with Texas Government Code §2001.022, this agency has determined that the proposed rule will not impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission.

##### TAKINGS ASSESSMENT

The agency has determined that the proposed governmental action will not affect private real property. The proposed amendments are an activity related to the handling of animals, including requirements for testing, movement, inspection, identification, reporting of disease, and treatment, in accordance with 4 TAC §59.7, and are, therefore, compliant with the Private Real Property Preservation Act in Government Code, Chapter 2007.

##### REQUEST FOR COMMENT

Comments regarding the proposal may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at "comments@tahc.texas.gov".

##### STATUTORY AUTHORITY

The amendments are proposed under the following statutory authority as found in Chapter 161 of the Texas Agriculture Code. The commission is vested by statute, §161.041(a), with the requirement to protect all livestock, domestic animals, and domestic fowl from disease. The commission is authorized, through §161.041(b), to act to eradicate or control any disease or agent of transmission for any disease that affects livestock.

Pursuant to §161.005, entitled "Commission Written Instruments", the commission may authorize the executive director or another employee to sign written instruments on behalf of the commission. A written instrument, including a quarantine or written notice signed under that authority, has the same force and effect as if signed by the entire commission.

Pursuant to §161.006, entitled "Documents to Accompany Shipment", if required that a certificate or permit accompany animals or commodities moved in this state, the document must be in the possession of the person in charge of the animals or commodities, if the movement is made by any other means.

Pursuant to §161.0417, entitled "Authorized Personnel for Disease Control", a person, including a veterinarian, must be authorized by the commission in order to engage in an activity that is part of a state or federal disease control or eradication program

for animals. Section 161.0417 requires the commission to adopt necessary rules for the authorization of such persons and, after reasonable notice, to suspend or revoke a person's authorization if the commission determines that the person has substantially failed to comply with Chapter 161 or rules adopted under that chapter. Section 161.0417 does not affect the requirement for a license or an exemption under Chapter 801, Occupations Code, to practice veterinary medicine.

Pursuant to §161.046, entitled "Rules", the commission may adopt rules as necessary for the administration and enforcement of this chapter.

Pursuant to §161.048, entitled "Inspection of Shipment of Animals or Animal Products", the commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. An agent of the commission is entitled to stop and inspect a shipment of animals or animal products being transported in this state in order to determine if the shipment originated from a quarantined area or herd; or determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or noncommunicable disease.

Pursuant to §161.061, entitled "Establishment", if the commission determines that a disease listed in §161.041 of this code or an agency of transmission of one of those diseases exists in a place in this state or among livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl, or that a place in this state or livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl are exposed to one of those diseases or an agency of transmission of one of those diseases, the commission shall establish a quarantine on the affected animals or on the affected place.

Pursuant to §161.101, entitled "Duty to Report", a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the diseases, if required by the commission, among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis of the disease.

Pursuant to §161.113, entitled "Testing or Treatment of Livestock", if the commission requires testing or vaccination under this subchapter, the testing or vaccination must be performed by an accredited veterinarian or qualified person authorized by the commission. The state may not be required to pay the cost of fees charged for the testing or vaccination. And if the commission requires the dipping of livestock under this subchapter, the livestock shall be submerged in a vat, sprayed, or treated in another sanitary manner prescribed by rule of the commission.

Pursuant to §161.114, entitled "Inspection of Livestock", an authorized inspector may examine livestock consigned to and delivered on the premises of a livestock market before the livestock are offered for sale. If the inspector considers it necessary, the inspector may have an animal tested or vaccinated. Any testing or vaccination must occur before the animal is removed from the livestock market.

No other statutes, articles or codes are affected by the proposal.

#### *§38.6. Official Trichomoniasis Tests.*

Approved Tests. Approved tests for Trichomoniasis testing within the State of Texas shall include the culture or Real Time Polymerase Chain Reaction (RT-PCR) testing of samples collected ~~[into an InPouch]~~ by certified veterinarians following approved collection, handling and shipping protocols, then tested in approved laboratories.

(1) Official Culture Tests. An official test is one in which the sample, collected in an InPouch, is received in the official laboratory, in good condition, within 48 hours of collection or is incubated in an InPouch by the collecting veterinarian for 48 hours after collection, and such sample is submitted to be tested according to the "Official Protocol for Culture of Trichomoniasis." Samples in transit for more than 48 hours will not be accepted for official culture testing. During transportation, the organisms should be protected from exposure to daylight and extremes of temperature, which should remain above 15 degrees Celsius (59 degrees Fahrenheit) and below 37 degrees Celsius (98.6 degrees Fahrenheit).

(2) Official Polymerase Chain Reaction Tests. Polymerase Chain Reaction is accepted as an official test or an official confirmatory test when completed by a qualified laboratory, approved by the Executive Director, and meets the following requirements: ~~[the sample is received in good condition by the laboratory within 48 hours after collection; or is Trichomoniasis samples pooled at the laboratory may qualify as official tests at a ratio of up to five individually collected samples pooled for one test. Veterinary practitioners may not submit pooled samples for an official test.]~~

(A) A Trichomoniasis sample submitted in an InPouch must be received in the official laboratory, in good condition, within 48 hours of collection or incubated by the collecting veterinarian for 48 hours after collection and submitted to arrive at the laboratory within 96 hours of collection. Trichomoniasis samples pooled at the laboratory may qualify as official tests at a ratio of up to five individually collected samples pooled for one test. Veterinary practitioners may not submit pooled samples for an official test.

(B) A Trichomoniasis sample submitted in phosphate buffered saline must be received in the official laboratory, in good condition, within 96 hours of collection.

(3) Other Official Tests. Other tests for Trichomoniasis may be approved by the Commission, as official tests, after the tests have been proven effective by research, have been evaluated sufficiently to determine efficacy, and a protocol for use of the test has been established.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 11, 2017.

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Gene Snelson

General Counsel

Texas Animal Health Commission

Earliest possible date of adoption: June 25, 2017

For further information, please call: (512) 719-0722



## CHAPTER 51. ENTRY REQUIREMENTS

### 4 TAC §51.1, §51.8

The Texas Animal Health Commission (commission) proposes amendments to §51.1, concerning Definitions, and §51.8, concerning Cattle, in Chapter 51, which is entitled "Entry Requirements". The purpose of the amendments is to address Bovine Trichomoniasis requirements to enter the state.

Bovine Trichomoniasis (Trich) is a venereal disease of cattle. The Trich organism causes abortion and extended calving sea-

sons. Bulls will remain persistently infected and spread infection from cow to cow.

The Bovine Trich Working Group (TWG) met on April 11, 2017, to evaluate the effectiveness of current Trichomoniasis rules. The TWG discussed the program overview to date, the management of infected herds, entry requirements, and the need for possible revisions to the program.

The TWG recommended a revision to the commission's current entry requirement regarding the use of a virgin certificate for breeding bulls between 12 months and 18 months of age. Commission rules generally require that bulls 12 months of age or older have a negative Trich test within 60 days prior to entering Texas. However, bulls that are 18 months of age or younger and receive a virgin status certificate are exempt from this testing requirement. The TWG is concerned that this exemption provides an opportunity for unknown status bulls that are infected with Trich to enter the state. As such, the TWG recommended that the virgin status certification exemption be removed from the commission's rule.

The TWG recommended adding a testing requirement exemption for bulls that are 12 months of age or older, receive a permit from the commission prior to entry, and are moved directly to a federally approved livestock market. The certificate of veterinary inspection for the bull must include the entry permit number and a statement that the bull must be Trich tested or sold for slaughter. This recommendation is consistent with intrastate requirements for bulls being sold at markets. As such, the bulls entering under this exemption would be tracked using the existing infrastructure, which minimizes the risk of Trichomoniasis being spread by these bulls. For clarity, the commission is defining "directly", "federally approved market" and "Trichomoniasis" in the proposed rule.

The TWG also recommended the commission prohibit the entry of female cattle that originated from a known Trichomoniasis positive herd, or were exposed to known Trichomoniasis positive bull unless the animal is officially identified, obtains a commission issued permit and is moved directly to an approved slaughtering establishment, and accompanied by a certificate of veterinary inspection stating the animal is Trichomoniasis exposed.

#### FISCAL NOTE

Ms. Larissa Schmidt, Chief of Staff, Texas Animal Health Commission, has determined for the first five-year period the rules are in effect, there will be no significant additional fiscal implications for state or local government as a result of enforcing or administering the rules. An Economic Impact Statement (EIS) is required if the proposed rule has an adverse economic effect on small businesses. The agency has evaluated the requirements and determined that there is not an adverse economic impact. Implementation of this rule poses no significant fiscal impact on small or micro-businesses.

#### PUBLIC BENEFIT NOTE

Ms. Schmidt has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to protect Texas' cattle industry from exposure to Trichomoniasis and reduce the disease risks of male and female cattle entering the state.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

In accordance with Texas Government Code §2001.022, this agency has determined that the proposed rules will not impact

local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission.

#### TAKINGS ASSESSMENT

The agency has determined that the proposed governmental action will not affect private real property. The proposed amendments are an activity related to the handling of animals, including requirements for testing, movement, inspection, identification, reporting of disease, and treatment, in accordance with Title 4 TAC, §59.7, and are, therefore, compliant with the Private Real Property Preservation Act in Government Code, Chapter 2007.

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#### STATUTORY AUTHORITY

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Pursuant to §161.054, entitled "Regulation of Movement of Animals", the commission, by rule, may regulate the movement of animals. The commission may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce.

Pursuant to §161.048, entitled "Inspection of Shipment of Animals or Animal Products", the commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. An agent of the commission is entitled to stop and inspect a shipment of animals or animal products being transported in this state in order to determine if the shipment originated from a quarantined area or herd; or determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or noncommunicable disease.

Pursuant to §161.005, entitled "Commission Written Instruments", the commission may authorize the executive director or another employee to sign written instruments on behalf of the commission. A written instrument, including a quarantine or written notice signed under that authority, has the same force and effect as if signed by the entire commission.

Pursuant to §161.044, entitled "Regulation of Livestock Movement from Stockyards or Railway Shipping Pens", the commission may regulate the movement of livestock out of stockyards or railway shipping pens and require treatment or certification of those animals as reasonably necessary to protect against communicable diseases.

Pursuant to §161.046, entitled "Rules", the commission may adopt rules as necessary for the administration and enforcement of this chapter.

Pursuant to §161.049, entitled "Dealer Records", the commission may require a livestock, exotic livestock, domestic fowl, or exotic fowl dealer to maintain records of all livestock, exotic

livestock, domestic fowl, or exotic fowl bought and sold by the dealer.

Pursuant to §161.061, entitled "Establishment", if the commission determines that a disease listed in §161.041 of this code or an agency of transmission of one of those diseases exists in a place in this state or among livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl, or that a place in this state or livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl are exposed to one of those diseases or an agency of transmission of one of those diseases, the commission shall establish a quarantine on the affected animals or on the affected place.

Pursuant to §161.081, entitled "Importation of Animals", the commission by rule may regulate the movement, including movement by a railroad company or other common carrier, of livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl into this state from another state, territory, or country.

Pursuant to §161.112, entitled "Rules", the commission shall adopt rules relating to the movement of livestock, exotic livestock, and exotic fowl from livestock markets and shall require tests, immunization, and dipping of those livestock as necessary to protect against the spread of communicable diseases.

Pursuant to §161.113, entitled "Testing or Treatment of Livestock", if the commission requires testing or vaccination under this subchapter, the testing or vaccination must be performed by an accredited veterinarian or qualified person authorized by the commission. The state may not be required to pay the cost of fees charged for the testing or vaccination. And if the commission requires the dipping of livestock under this subchapter, the livestock shall be submerged in a vat, sprayed, or treated in another sanitary manner prescribed by rule of the commission.

Pursuant to §161.114, entitled "Inspection of Livestock", an authorized inspector may examine livestock consigned to and delivered on the premises of a livestock market before the livestock are offered for sale. If the inspector considers it necessary, the inspector may have an animal tested or vaccinated. Any testing or vaccination must occur before the animal is removed from the livestock market.

No other statutes, articles or codes are affected by the proposal.

#### *§51.1. Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Accredited veterinarian--A licensed veterinarian who is approved to perform specified functions required by cooperative state-federal disease control and eradication programs pursuant to Title 9 of the Code of Federal Regulations, Parts 160 and 161.

(2) Animal--Includes livestock, exotic livestock, domestic fowl, and exotic fowl.

(3) Assembly--Boarding stables, boarding pastures, breeding farms, parades, rodeos, roping events, trail rides, and training stables.

(4) Certificate of veterinary inspection--A document signed by an accredited veterinarian that shows the livestock, poultry, exotic livestock, or exotic fowl listed were inspected and subjected to tests, immunizations, and treatment as required by the commission. Certificates are valid for 30 days for all species.

(5) Cervidae--Deer, elk, moose, caribou and related species in the cervidae family, raised under confinement or agricultural

conditions for the production of meat or other agricultural products or for sport or exhibition, and free-ranging cervidae when they are captured for any purpose.

(6) Commission--The Texas Animal Health Commission.

(7) Commuter Flock--A National Poultry Improvement Plan (pullorum-typhoid clean or equivalent) flock in good standing with operations in participating states that are under single ownership or management control whose normal operations require interstate movement of hatching eggs and/or baby poultry without change of ownership for purposes of hatching, feeding, rearing or breeding. The owner or representative of the company owning the flock and chief animal health officials of participating states of origin and destination must have entered into a signed "Commuter Poultry Flock Agreement."

(8) Commuter Cattle Herd--A herd of cattle located in two or more states that is documented as a valid ranching operation by those states in which the herd is located and which requires movement of cattle interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premise owned, leased, or rented by the same individual. An application for "commuter herd" status must be signed by the owner and approved by the states in which the herd is located. This status will continue until canceled by the owner or one of the signatory states.

(9) Commuter Swine Herd--A swine herd located in two or more states that is documented as a valid ranching operation by those states in which the herd is located and which requires movement of swine interstate from a farm of origin or returned interstate to a farm of origin in the course of normal ranching operations, without change of ownership, directly to or from another premise owned, leased, or rented by the same individual. An application for "commuter herd" status must be signed by the owner and approved by the states in which the herd is located. This status will continue until canceled by the owner or one of the signatory states.

(10) Directly--Moved in a means of conveyance, without stopping to unload while en route, except for stops of less than 24 hours to feed, water or rest the animals being moved, and with no commingling of animals at such stops.

(11) [(40)] Equine interstate passport--A document signed by an accredited veterinarian that shows the equine listed were inspected, subjected to tests, immunizations and treatment as required by the issuing state animal health agency, and contains a description of the equine listed. The passport is valid for six months when accompanied by proof of an official negative EIA test within the previous six months. Permanent individual animal identification in the form of a lip tattoo, brand or electronic implant is required for all equine approved for the equine interstate passport. This document is valid for equine entering from any state that has entered into a written agreement to reciprocate with Texas.

(12) [(44)] Equine identification card--A document signed by the owner and a brand inspector or authorized state animal regulatory agency representative that lists the animal's name and description and indicates the location of all identifying marks or brands. This document is valid for equine entering from any state which has entered into a written agreement to reciprocate with Texas.

(13) [(42)] Exotic livestock--Grass-eating or plant-eating, single-hooved or cloven-hooved mammals that are not indigenous to this state and are known as ungulates, including animals from the swine, horse, tapir, rhinoceros, elephant, deer, and antelope families.

(14) [(13)] Exotic fowl--Any avian species that is not indigenous to this state. The term includes ratites.

(15) Federally Approved Livestock Market--A livestock market under State or Federal veterinary supervision where livestock are assembled and has been approved under Title 9 of the Code of Federal Regulation, Part 71, Section 71.20.

(16) [(14)] Interstate show--A show, fair, or exhibition that permits livestock and poultry from other states to enter for show or exhibition and be held in common facilities with Texas origin livestock and poultry of the same species.

(17) [(15)] Livestock--Cattle, horses, mules, asses, sheep, goats, and hogs.

(18) [(16)] Owner-shipper statement--A statement signed by the owner or shipper of the livestock being moved stating the location from which the animals are moved interstate; the destination of the animals; the number of the animals covered by the statement; the species of the animal covered; the name and address of the shipper; and the identification of each animal as required by the commission or the United States Department of Agriculture (USDA).

(19) [(17)] Permit--A document recognized by the commission with specified conditions relative to movement, testing and vaccinating of animals which is required to accompany the animals entering, leaving or moving within the State of Texas.

(A) "E" permit--Premovement authorization for entry of animals into the state by the commission. The "E" permit states the conditions under which movement may be made, and will provide any appropriate restrictions and test requirements after arrival. The permit is valid for 15 days.

(B) VS 1-27 (VS Form 1-27)--A premovement authorization for movement of animals to restricted designations.

(20) [(18)] Purebred registry association--A swine breed association formed and perpetuated for the maintenance of records of purebreeding of swine species for a specific breed whose characteristics are set forth in constitutions, by-laws, and other rules of the association.

(21) [(19)] Radio Frequency Identification Device (RFID)--Official individual animal identification with an identification device that utilizes radio frequency technology. The RFID devices include ear tags, boluses, implants (injected), and tag attachments (transponders that work in concert with ear tags).

(22) [(20)] Sponsor--An owner or person in charge of an exhibition, show or fair.

(23) Trichomoniasis--A venereal disease of cattle caused by the organism Tritrichomonas foetus.

#### *§51.8. Cattle.*

(a) Brucellosis requirements. All cattle must meet the requirements contained in §35.4 of this title (relating to Entry, Movement, and Change of Ownership). Cattle which are parturient, postparturient or 18 months of age and over (as evidenced by the loss of the first pair of temporary incisor teeth), except steers and spayed heifers being shipped to a feedyard prior to slaughter, shall be officially individually identified with a permanent identification device prior to leaving the state of origin.

(b) Tuberculosis requirements.

(1) All beef cattle, bison and sexually neutered dairy cattle originating from a federally recognized accredited tuberculosis free state, or zone, as provided by Title 9 of the Code of Federal Regula-

tions, Part 77, Section 77.8, or from a tuberculosis accredited herd are exempt from tuberculosis testing requirements.

(2) All beef cattle, bison and sexually neutered dairy cattle originating from a state or zone with anything less than a tuberculosis free state status and having an identified wildlife reservoir for tuberculosis or that have never been declared free from tuberculosis shall be tested negative for tuberculosis in accordance with the appropriate status requirements as contained in Title 9 of the Code of Federal Regulations, Part 77, Sections 77.10 through 77.19, prior to entry with results of this test recorded on the certificate of veterinary inspection. All beef cattle, bison and sexually neutered dairy cattle originating from any other states or zones with anything less than free from tuberculosis shall be accompanied by a certificate of veterinary inspection.

(3) All dairy breed animals, including steers and spayed heifers, shall be officially identified prior to entry into the state. All sexually intact dairy cattle, that are two months of age or older may enter provided that they are officially identified, and are accompanied by a certificate of veterinary inspection stating that they were negative to an official tuberculosis test conducted within 60 days prior to the date of entry. All sexually intact dairy cattle that are less than two months of age must obtain an entry permit from the Commission, as provided in §51.2(a) of this chapter (relating to General Requirements), to a designated facility where the animals will be held until they are tested negative at the age of two months. Animals which originate from a tuberculosis accredited herd, and/or animals moving directly to an approved slaughtering establishment are exempt from the test requirement. Dairy cattle delivered to an approved feedlot for feeding for slaughter by the owner or consigned there and accompanied by certificate of veterinary inspection with an entry permit issued by the commission are exempt from testing unless from a restricted herd. In addition, all sexually intact dairy cattle originating from a state or area with anything less than a tuberculosis free state status shall be tested negative for tuberculosis in accordance with the appropriate requirements for states or zones with a status as provided by Title 9 of the Code of Federal Regulations, Part 77, Sections 77.10 through 77.19, for that status, prior to entry with results of the test recorded on the certificate of veterinary inspection.

(4) All "M" brand steers, which are recognized as potential rodeo and/or roping stock, being imported into Texas from another state shall obtain a permit, prior to entry into the state, in accordance with §51.2(a) of this chapter and be accompanied by a certificate of veterinary inspection which indicates that the animal(s) were tested negative for tuberculosis within 12 months prior to entry into the state.

(5) All other cattle from foreign countries, foreign states, or areas within foreign countries defined by the Commission, with comparable tuberculosis status, would enter by meeting the requirements for a state with similar status as stated in paragraphs (1), (2) and (3) of this subsection.

(6) All sexually intact cattle, from any foreign country or part thereof with no recognized comparable Tuberculosis status.

(A) To be held for purposes other than for immediate slaughter or feeding for slaughter in an approved feedyard or approved pen, must be tested at the port of entry into Texas under the supervision of the port veterinarian, and shall be under quarantine on the first premise of destination in Texas pending a negative tuberculosis test no earlier than 120 days and no later than 180 days after arrival. The test will be performed by a veterinarian employed by the commission or APHIS/VS.

(B) When destined for feeding for slaughter in an approved feedyard, cattle must be tested at the port-of-entry into Texas under the supervision of the port veterinarian; moved directly to the approved feedyard only in sealed trucks; accompanied with a VS 1-27

permit issued by commission or USDA personnel; and "S" branded prior to or upon arrival at the feedlot.

(7) Cattle originating from Mexico.

(A) All sexually intact cattle shall meet the requirements provided for in paragraph (6) of this subsection.

(B) Steers and spayed heifers from Mexico shall meet the federal importation requirements as provided in Title 9 of the Code of Federal Regulations, Part 93, Section 93.427, regarding importation of cattle from Mexico. In addition to the federal requirements, steers and spayed heifers must be moved under permit to an approved pasture, approved feedlot, or approved pens.

(C) Cattle utilized as rodeo and/or roping stock shall meet the requirements set out in paragraph (6)(A) of this subsection and the applicable requirement listed in clauses (i) and (ii) of this subparagraph:

(i) All sexually intact cattle shall be retested annually for tuberculosis at the owner's expense and the test records shall be maintained with the animal and available for review.

(ii) All sexually neutered horned cattle imported from Mexico are recognized as potential rodeo and/or roping stock and must:

(I) be tested for tuberculosis at the port of entry under the supervision of the USDA port veterinarian;

(II) be moved by permit to a premise of destination and remain under Hold Order, which restricts movement, until permanently identified by methods approved by the commission, and retested for tuberculosis between 60 and 120 days after entry at the owner's expense. The cattle may be allowed movement to and from events/activities in which commingling with other cattle will not occur and with specific permission by the TAHC until confirmation of the negative post entry retest for tuberculosis can be conducted; and

(III) be retested for tuberculosis annually at the owner's expense and the test records shall be maintained with the animal and available for review.

(D) Regardless of reproductive status, test history, or Mexican State of origin, Holstein and Holstein cross cattle are prohibited from entering Texas.

(E) All cattle moved into Texas from Mexico shall be identified with an "M" brand prior to moving to a destination in Texas.

(F) A copy of the certificate issued by an authorized inspector of the United States Department of Agriculture, Animal and Plant Health Inspection Service, for the movement of Mexico cattle into Texas must accompany such animals to their final destination in Texas, or so long as they are moving through Texas.

(G) Any certificate, form, record, report, or chart issued by an accredited veterinarian for cattle that originate from Mexico, have resided in Mexico or are "M" branded shall include the statement, "the cattle represented on this document are of Mexican origin."

(c) Trichomoniasis Requirements:

(1) A breeding bull that is 12 months of age or older may enter the state provided the bull is officially identified as provided by §38.1 of this title (relating to Definitions) and accompanied by a certificate of veterinary inspection stating the bull tested negative for Trichomoniasis with an official Real Time Polymerase Chain Reaction (RT-PCR) test as provided by §38.6 of this title (relating to Official Trichomoniasis Tests) within 60 days prior to the date of entry.

(2) A breeding bull that is 12 months of age or older is exempt from the testing requirement of paragraph (1) of this subsection if the bull meets one of the following requirements:

(A) The bull enters on and is moved by a permit, issued prior to entry, from the commission, in accordance with §51.2(a) of this chapter, for the purpose of participating at a fair, show, exhibition or rodeo, remains in the state for less than 60 days from the date of entry, and is isolated from female cattle at all times. The certificate of veterinary inspection shall include the entry permit number. A bull that is in this state on or after the 60th day from the date of entry shall test negative for Trichomoniasis with an official RT-PCR test.

(B) The bull enters on and is moved by a permit, issued prior to entry, from the commission, in accordance with §51.2(a) of this chapter, directly to a feedyard that has executed a Trichomoniasis Certified Facility Agreement. The certificate of veterinary inspection shall include the entry permit number.

(C) The bull enters on and is moved by a permit, issued prior to entry from the commission, in accordance with §51.2(a) of this chapter, directly to a facility that tests the gain and feed conversion of cattle (bull test station) that isolates the bull from female cattle at all times. The certificate of veterinary inspection shall include the entry permit number. The bull shall return to the out-of-state premises destination directly from the bull test station or test negative for Trichomoniasis with an official RT-PCR test.

(D) A Texas bull that is enrolled in an out-of-state facility that tests the gain and feed conversion of cattle (bull test station) and isolates the bull from female cattle at all times may move directly to the Texas premises of origin. The certificate of veterinary inspection shall state the bull was enrolled in a bull test station and was isolated from female cattle.

(E) The bull is enrolled at an out-of-state semen collection facility, which complies with Certified Semen Services Minimum Requirements for Disease Control of Semen Produced for Artificial Insemination, that isolates the bull from female cattle at all times and the bull is moved directly from a semen collection facility into the state. The certificate of veterinary inspection shall state the bull was enrolled in a semen collection facility and was isolated from female cattle.

(F) The bull originates from a herd that is enrolled in a Certified Trichomoniasis Free Herd Program or other certification program that is substantially similar, as determined by the Executive Director, to the program requirements provided by §38.8 of this title (relating to Herd Certification Program--Breeding Bulls).

(G) The bull enters on and is moved by a permit, issued prior to entry from the commission, in accordance with §51.2(a) of this chapter, directly to a federally approved livestock market that isolates the bull from female cattle at all times and the bull is Trichomoniasis tested as required by §38.2 of this title (relating to General Requirements). The certificate of veterinary inspection shall include the entry permit number. [The bull is 18 months of age or younger and accompanied by a commission or any state approved Trichomoniasis virgin status certificate and a certificate of veterinary inspection that includes a statement reflecting the bull's virgin status.]

(3) Female cattle 12 months of age or older that originate from a known Trichomoniasis positive herd, or exposed to a known Trichomoniasis positive bull, may not enter the state unless the animal is officially identified and enters on and is moved by a permit, issued prior to entry from the commission, in accordance with §51.2(a) of this chapter, directly to an approved slaughtering establishment. The certificate of veterinary inspection shall include the entry permit number and a statement that the animal is Trichomoniasis exposed.

(4) [(3)] All breeding bulls entering from a foreign country shall enter on and be moved by a permit, issued prior to entry from the commission, in accordance with §51.2(a) of this chapter, to a premises of destination in Texas and shall be placed under Hold Order and officially tested for Trichomoniasis with not less than three official culture tests conducted not less than seven days apart, or an official RT-PCR test, within 30 days after entry into the state. All bulls shall be isolated from female cattle at all times until tested negative for Trichomoniasis. The Hold Order shall not be released until all other post entry disease testing requirements have been completed. All bulls tested for Trichomoniasis shall be officially identified at the time the initial test sample is collected. The identification shall be recorded on the test documents.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 11, 2017.

TRD-201701949

Gene Snelson

General Counsel

Texas Animal Health Commission

Earliest possible date of adoption: June 25, 2017

For further information, please call: (512) 719-0722



## TITLE 13. CULTURAL RESOURCES

### PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

#### CHAPTER 6. STATE RECORDS

#### SUBCHAPTER C. STANDARDS AND PROCEDURES FOR MANAGEMENT OF ELECTRONIC RECORDS

##### 13 TAC §§6.91 - 6.97

The Texas State Library and Archives Commission proposes to repeal 13 TAC §§6.1 - 6.97 regarding standards and procedures for management of electronic records. The proposed repealed rules will be replaced at the same time as the adoption of new proposed rules with updated standards and procedures for management of electronic records.

Craig Kelso, Director, State and Local Records Management, has determined that for the first five years the proposed repeal is in effect there is no fiscal implication for state government as a result of the adoption of the repeal. Mr. Kelso does not anticipate either a loss of, or an increase in, revenue to state government as a result of the proposal.

Mr. Kelso has also determined that for each year of the first five years the repeal is in effect the public benefit of the proposal is to clarify the standards and better reflect practices in electronic records management to strengthen state government records management. There will be no impact on small businesses, micro-businesses, or individuals as a result of the adoption of the repeal.

Written comments on the proposed repeal may be submitted to Nanette Pfister, Program Planning and Research Specialist, Texas State Library and Archives Commission, State and

Local Records Management, P.O. Box 12927, Austin, Texas 78711; by fax to (512) 936-2306; or by email to nanette.pfister@tsl.texas.gov. The Texas State Library and Archives Commission must receive written comments postmarked no later than 30 days from the date this notice is published in the *Texas Register*.

Statutory authority for this subchapter is provided in Texas Government Code §§441.189(a), 441.190, and 441.199.

§6.91. *Definitions.*

§6.92. *General.*

§6.93. *Creation of Electronic State Records.*

§6.94. *Retention of Electronic State Records.*

§6.95. *Final Disposition of Electronic State Records.*

§6.96. *Maintenance of Electronic Records Storage Media.*

§6.97. *Guidelines for the Management of Electronic Transactions and Signed Records.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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TRD-201701945

Donna Osborne

Chief Operations and Fiscal Officer

Texas State Library and Archives Commission

Earliest possible date of adoption: June 25, 2017

For further information, please call: (512) 463-5474



##### 13 TAC §§6.91 - 6.98

The Texas State Library and Archives Commission proposes to adopt new 13 TAC §§6.91 - 6.98 regarding standards and procedures for management of electronic records. The proposed rules would replace repealed rules with updated standards and procedures for management of electronic records.

The Texas State Library and Archives Commission is specifically empowered to adopt rules for the creation, protection, maintenance, and storage of electronic state records. Also, the commission may adopt other rules it determines as necessary for cost reduction and efficiency of recordkeeping by state agencies, and for the state's management and preservation of records.

Craig Kelso, Director, State and Local Records Management, has determined that for the first five years after the proposed rules are in effect there is no fiscal implication for state government as a result of the adoption of the rules. Mr. Kelso does not anticipate either a loss of, or an increase in, revenue to state government as a result of the proposed rules.

Mr. Kelso has also determined that for the first five years after the proposed rules are in effect the public benefit of the proposed sections is to clarify the standards and better reflect practices in electronic records management to strengthen state government records management. There will be no impact on small businesses, micro-businesses, or individuals as a result of the adoption of the rules.

Written comments on the proposal may be submitted to Nanette Pfister, Program Planning and Research Specialist, Texas State Library and Archives Commission, State and Local Records Management, P.O. Box 12927, Austin, Texas 78711; by fax to (512) 936-2306; or by email to nanette.pfister@tsl.texas.gov. The Texas State Library and Archives

Commission must receive written comments postmarked no later than 30 days from the date this notice is published in the *Texas Register*.

The new sections are proposed under the authority of Texas Government Code §§441.189(a), 441.190, and 441.199 that provide the Commission the authority to establish standards and procedures for management of electronic records.

Statutory authority for this subchapter is provided in Texas Government Code §§441.189(a), 441.190, and 441.199.

§6.91. General Provisions.

(a) Authority. The Texas State Library and Archives Commission, hereafter referred to as the commission, is specifically empowered to adopt rules for the creation, protection, maintenance, and storage of electronic state records. Also, the commission may adopt other rules it determines as necessary for cost reduction and efficiency of record-keeping by state agencies, and for the state's management and preservation of records. Statutory authority for this subchapter is provided in Texas Government Code §§441.189(a), 441.190, and 441.199.

(b) Purpose. The purpose of this subchapter is to establish minimum standards and procedures for the creation, protection, maintenance, retention, storage, disposition, and preservation of electronic state records as part of the records management program required in state agencies by Texas Government Code §441.183.

(c) Scope. This subchapter applies to:

(1) all state agencies as defined in Texas Government Code §441.180(9); and

(2) all state records as defined in Texas Government Code §441.180(11).

§6.92. Definitions.

The following words, terms, acronyms, and concepts when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Terms defined in Texas Government Code §441.180 shall have the meaning assigned by statute.

(1) Archival state record--Archival state record has the meaning as defined in Texas Government Code §441.180(2).

(2) ARIS--Archives and Information Services division of the commission.

(3) Digital Rights Management--Various access control technologies that are used to restrict usage or access of proprietary hardware, software, or copyrighted works by controlling the use, modification and distribution of records, as well as systems within devices that enforce these policies.

(4) Electronic state record--Information that meets the definition of a state record in the Texas Government Code §441.031 and §441.180, and is maintained in electronic format for computer processing, including the product of computer processing of the information. Any state record may be created or stored electronically in accordance with standards and procedures adopted as administrative rules of the commission as authorized by Texas Government Code §441.189.

(5) Essential state record--See Vital state record.

(6) Final disposition--Final processing of state records by either destruction or archival preservation by the commission, by another state agency, or by an alternate archival institution as permitted by Texas Government Code Chapter 441, Subchapter L and 13 TAC §6.1(10).

(7) Information systems--The combination of information, technology, processes, and people brought together to support a given business objective.

(8) Institution of higher education--SEE State agency.

(9) Metadata--Data that summarizes basic information about a record, and which can facilitate tracking, locating, verifying authenticity, or working with specific records or data. Examples include but are not limited to author, date created, date modified, file extension, and file size.

(10) Migration--In a computer environment, the act of moving data or records in electronic form from one hardware or software system or configuration to another so that they may continue to be understandable and usable for as long as they are needed.

(11) Records management program--The program of a state agency undertaken on a continuing and active basis (i.e. not a project) to apply management techniques to the creation, use, maintenance, retention, preservation, and destruction of state records as required by Texas Government Code §441.183.

(12) Records series--A group of identical or related records that fulfill a specific function and which are often associated used and/or filed together, and that permit evaluation as a group for retention scheduling purposes as defined in 13 TAC §6.1(13).

(13) State agency--State agency has the meaning as defined in Texas Government Code §441.180(9).

(14) Structured data--Data that resides in fixed fields within a record or file. Relational databases and spreadsheets are examples of structured data.

(15) Unstructured data--Data within electronic files that either do not have a pre-defined structure, or are not organized in a pre-defined manner. These files are typically text-heavy, and may contain agency records, dates, numbers, and facts. Word processing documents, graphics files, presentations, and audiovisual materials are examples of unstructured data.

(16) Vital state record--Vital state record has the meaning as defined in Texas Government Code §441.180(13).

§6.93. Policies and Procedures.

State agency heads or designees shall approve and institute written policies and procedures that communicate an enterprise-wide approach for electronic state records management practices, and that create accountability and auditability for the execution of these policies and procedures. Refer to Guidelines (§6.96) for recommended electronic records management best practices and standards to satisfy requirements specified under this subchapter.

(1) An agency's policies and procedures required by this section shall include these elements:

(A) Establish a component of the agency's active and continuing records management program to address the management of electronic state records that includes the management of electronic state records created, received, retained, used, transmitted, or disposed of electronically, including those electronic state records in the possession of the state agency, vendors, or other third parties (i.e., telecommunication, social media, etc.);

(B) Integrate the management of electronic state records with other records and information resources management programs of the state agency;



(C) Incorporate electronic state records management objectives, responsibilities, and authorities in pertinent state agency directives;

(D) Address electronic state records management requirements, including retention requirements and final disposition;

(E) Address the use of new technologies adequate to fulfill the agency's duty to identify, manage, retain, and make final disposition of electronic state records;

(F) Ensure transparency by documenting in an open and verifiable manner the processes and activities carried out in the management of electronic state records; and

(G) Require that records management concepts and requirements be included in agency training on information systems and resources. Also, an agency's information resources personnel must receive training on records management issues as they relate to electronic information systems, electronic mail systems, the operation, care, and handling of information, and the hardware, software, and media used to ensure that:

(i) Information resources personnel shall be trained to understand the records management implications of selecting, purchasing, developing, installing, deploying, modifying, and retiring technology hardware, software, etc.; and

(ii) Decision makers and end users shall be trained to understand their responsibilities to create, protect, and manage electronic state records anywhere.

(2) Adhere to 1 TAC 202 requirements regarding security programs; and

(3) Follow privacy requirements for information that must be protected from unauthorized use or disclosure as required by applicable state or federal law (e.g. constitutional, statutory, judicial, and legal agreement requirements).

§6.94. Minimum Requirements for all Electronic State Records.

(a) Each state agency must:

(1) Manage electronic state records according to the state agency's records management program and certified records retention schedule regardless of format, system, or storage location;

(2) Maintain state agency ownership and responsibility for state records regardless of where the record originates or resides, including but not limited to cloud computing services and social media sites;

(3) Develop and maintain up-to-date documentation about electronic records systems adequate to identify, retain, read, process, or migrate the records and ensure the timely, authorized final disposition of electronic state records;

(4) Ensure that electronic state records remain readily retrievable and readable for as long as they are maintained by the state agency by migration or by maintaining any software, hardware, and documentation required to retrieve and read the electronic state records;

(5) Maintain descriptive and technical metadata required for electronic state records to be fully understandable by the appropriate designated community, including metadata necessary to adequately support the authenticity, integrity, reliability, and usability as well as the preservation of a record;

(6) Preserve the authenticity, integrity, reliability, and usability of the records;

(7) Ensure that electronic state records are readily retrievable and readable independently of other records in the information or storage system;

(8) Do not use system backups that are required for disaster recovery to satisfy records retention requirements unless indexed for ready retrievability and tested on a regular basis; and

(9) Require all third-party custodians of records to provide the state agency with descriptions of their business continuity and/or disaster recovery plans as regards to the protection of the state agency's vital state records.

(b) Any technological component for electronic state records developed, used, or acquired by a state agency must meet the following requirements:

(1) Support the state agency's ability to meet the minimum requirements in subsection (a) of this section to preserve and make readily retrievable and readable any electronic state record or to extract or migrate the record in as complete a form as possible for its full retention period; and

(2) Provide security to ensure the authenticity of the records in accordance with 1 TAC 202 regarding security programs.

§6.95. Additional Record Requirements for Archival, Permanent, and Vital Electronic State Records.

In addition to the minimum requirements in §6.94, the following requirements apply to electronic state records that are archival for the State Archives, archival for an agency archives, permanent, and vital:

(1) Archival for the State Archives: Archival electronic state records indicated by records series that are marked with "A" (Archival) or "R" (Archival Review) codes in the state agency's certified records retention schedule, must be:

(A) Offered to the commission for review or be transferred to the custody of the commission when retention requirements are met, the administrative need of the state agency ends, or earlier as required and in accordance with Texas Government Code §441.186, unless the law requires the records to remain with the state agency. A transfer or review must include the following:

(i) The state agency must contact the commission to coordinate transfer or review of the archival electronic state records;

(ii) Each records series to be transferred must contain, at minimum, the following metadata:

(I) Series title (from records retention schedule);

(II) Inclusive dates covered by the transfer;

(III) Arrangement (folder structure) of the records in the transfer;

(IV) File format(s) represented;

(V) Creating application; and

(VI) Date of last modification;

(iii) Each individual record transferred must include, at minimum, the following metadata:

(I) Title or subject;

(II) Creator (could be a person, office, division, and/or state agency); and

(III) Date of creation;

(iv) Metadata must be embedded in the records or provided in a separate file at the time of transfer;

(v) The state agency must maintain the integrity of the record through use of checksums on each record transferred;

(vi) The state agency must remove any encryption or other Digital Rights Management prior to transfer or provide the commission with method(s) for doing so; and

(vii) The state agency must follow procedures published on the commission's website for transferring or reviewing archival electronic state records.

(B) Identified as archival electronic state records in the custody of the state agency because the commission cannot immediately accept custody of the records in accordance with Texas Government Code §441.186(e) and the state agency must:

(i) Maintain documentation for the operating environment in which the records were created or are being maintained;

(ii) For structured data, also maintain all metadata required to understand the structure of the records;

(iii) Store records in standard formats as identified in procedures published on the commission's website, or else:

(I) If business requirements necessitate use of non-standard formats, the records must be converted to standard formats before transfer to the commission or before going into long-term storage; and

(II) If the records are stored in a proprietary system, the state agency must retain all licenses required to access records;

(iv) Redacted records are not the record copy but may be stored with the record copy; and

(v) Follow the commission procedures published on the commission's website for storing archival electronic state records until transfer to or review by the commission.

(2) Archival for agency archives: For archival electronic state records indicated by records series that are marked with "A" or "I" (Archival) or "R" or "O" (Archival Review) codes in the state agency's certified records retention schedule.

(A) This paragraph applies to:

(i) The small number of agencies which are allowed by statute to maintain a state agency archive instead of transferring their archival state records to the commission. Check the statutes and confirm with the State Archives before implementing a state agency archives; and

(ii) Archival electronic state records described in records series marked as "I" (Archival) or "O" (Archival Review) in a university's certified records retention schedule, which must be transferred to or reviewed by the university's archives.

(B) Each state agency must:

(i) Have policies and procedures to properly identify, maintain, migrate, and preserve archival electronic state records; and

(ii) Adhere to the requirements listed in paragraph (3) of this section and as issued in commission guidelines.

(3) Permanent: Electronic state records with permanent retention periods but that are not archival ("A", "I", "O" or "R") on the state agency's certified records retention schedule:

(A) Must meet the requirements listed in paragraph (1)(B) or (2) of this section, as applicable;

(B) Must be documented and migrated when necessary to ensure that they remain permanently accessible and readable; and

(C) May be indexed and converted to microfilm for permanent retention.

(4) Vital: Vital electronic state records must be included with special provisions in state agency records management policies and procedures and the state agency records management program and the state agency must:

(A) Identify records series containing vital electronic state records on the state agency's certified records retention schedule;

(B) Create written policies for the protection of vital electronic state records in all formats and storage locations;

(C) Create written disaster recovery procedures for accessing vital electronic state records during a disruptive event;

(D) Address vital electronic state records in continuity of operations, business continuity, and/or disaster recovery plans as part of the state agency's overall continuity program, as required in Texas Labor Code §412.054; and

(E) Require all third-party custodians of records holding records on behalf of the agency to provide the state agency with descriptions of their business continuity and/or disaster recovery plans as regards to the protection of the state agency's vital electronic state records.

#### §6.96. Guidelines.

The Commission will issue guidelines, under the authority of the state records administrator to assist state agencies in fulfilling their duties required under this subchapter, and will update the guidelines as necessary to address technological changes. These guidelines will offer best practices and direction about how to comply with the requirements of these rules.

#### §6.97. Final Disposition of Electronic State Records by Transfer to State Archives or Destruction.

(a) Any electronic state record may be destroyed only in accordance with a certified records retention schedule per Texas Government Code §441.185 or, in lieu of being listed on a state agency's certified records retention schedule, a records disposition authorization request approved by the commission's director and librarian;

(b) A state agency must ensure that an electronic state record scheduled for disposition is disposed of in a manner that ensures protection of confidential information; and

(c) A state agency must establish and implement procedures that address the disposition of electronic state records by staff in accordance with its certified records retention schedule as well as secure destruction requirements from the Department of Information Resources, including identifying and disposing of transitory information.

#### §6.98. Uniform Electronic Transactions Act (UETA).

Pursuant to the Texas Business and Commerce Code §322.017, the Department of Information Resources and the commission jointly formed the Uniform Electronic Transactions Act Task Force to create rules and develop the Guidelines for the Management of Electronic Transactions and Signed Records. The Guidelines for the Management of Electronic Transactions and Signed Records are applicable to state agencies that send and accept electronic records and electronic signatures to and from other persons and to state agencies that otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. These guidelines are detailed in 1 TAC 203.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 11, 2017.

TRD-201701946

Donna Osborne

Chief Operations and Fiscal Officer

Texas State Library and Archives Commission

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For further information, please call: (512) 463-5474



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

##### SUBCHAPTER C. TEXAS SUCCESS INITIATIVE

###### 19 TAC §4.57

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §4.57, concerning the Texas Success Initiative, to incorporate into existing rules changes that address the college readiness benchmark for the writing section of the TSI Assessment.

R. Jerel Booker, J.D., Assistant Commissioner for College Readiness and Success, has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications for state or local governments as a result of enforcing or administering the rule.

Mr. Booker has also determined that for each of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be a more consistent application of the Texas Success Initiative.

Comments on the proposal may be submitted to Jerel Booker, J.D., P.O. Box 12788, Austin, Texas 78711 or via email in care of Suzanne Morales-Vale, Ph.D., who may be reached at [suzanne.morales-vale@thecb.state.tx.us](mailto:suzanne.morales-vale@thecb.state.tx.us). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code (TEC), §51.3062 which provides the Coordinating Board with the authority to establish policies and procedures relating to the TSI, and §51.307, which provides the Coordinating Board with the authority to adopt and publish rules and regulations to effectuate the provisions of Chapter 51, Subchapter F of the TEC.

The amendments affect TEC, §51.3062.

§4.57. *College Ready Standards.*

(a) Effective the institution's first class day of fall 2017, the [The] following minimum passing standards (also known as "cut scores") for reading, mathematics, and writing on the TSI Assessment

shall be used by an institution to determine a student's readiness to enroll in entry-level freshman coursework:

(1) - (2) (No change).

(3) Writing:

(A) a placement score of at least 340 [350], and an essay score of at least 4 [5]; or

(B) a placement score of less than 340 and an ABE Diagnostic level of at least 4 and an essay score of at least 5. [a placement score of at least 363, and an essay score of 4; or]

[(C) a placement score of less than 350, and an ABE Diagnostic level of at least 4, and an essay score of at least 5.]

(b) (No change).

(c) An institution shall not require higher or lower college readiness standards on any or all portions of the TSI Assessment to determine a student's readiness to enroll in entry-level freshman coursework [course].

(d) For a student with an existing plan for academic success as required in §4.58, the institution must revise the plan as needed to align with the college readiness standards as defined in subsection (a) of this section. [TSI Assessment results are valid for five (5) years from date of testing.]

(e) TSI Assessment results are valid for five (5) years from date of testing.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 15, 2017.

TRD-201701956

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: June 25, 2017

For further information, please call: (512) 427-6104



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 13. TEXAS COMMISSION ON FIRE PROTECTION

#### CHAPTER 425. FIRE SERVICE INSTRUCTORS

##### 37 TAC §§425.3, 425.5, 425.7, 425.9

The Texas Commission on Fire Protection (the commission) proposes amendments to Chapter 425, Fire Service Instructors, concerning, §425.3, Minimum Standards for Fire Service Instructor I Certification, §425.5, Minimum Standards for Fire Service Instructor II Certification, §425.7, Minimum Standards for Fire Service Instructor III Certification, and §425.9, Minimum Standards for Master Fire Service Instructor III Certification.

The purpose of the proposed amendments is to delete obsolete language and make other minor language changes for clarification and consistency.

Tim Rutland, Executive Director, has determined that for each year of the first five year period the proposed amendments are in effect, there will be no significant fiscal impact to state government or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit from the passage is that the commission will provide clarification and consistent rules regarding Fire Service Instructors. There will be no effect on micro or small businesses or persons required to comply with the amendments as proposed.

Comments regarding the proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768 or e-mailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

The amendments are proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; §419.032 which allows the commission to appoint fire protection personnel.

The proposed amendments implement Texas Government Code, Chapter 419, §419.008 and §419.032.

*§425.3. Minimum Standards for Fire Service Instructor I Certification.*

In order to ~~be~~ *[become]* certified as a Fire Service Instructor I an individual must:

(1) have a minimum of three years of experience as defined in §421.5 of this title (relating to Definitions) ~~[(as defined in §421.5(47) of this title (relating to Definitions))]~~ in fire protection in one or more or any combination of the following:

(A) a paid, volunteer, or regulated non-governmental fire department; or

(B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(2) possess valid documentation as a Fire Instructor I, II or III from either:

(A) the International Fire Service Accreditation Congress (IFSAC); or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2007 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1~~[(a)(2)]~~ of this title (relating to Requirements--General); or

(3) have completed the appropriate curriculum for Fire Service Instructor I contained in Chapter 8 of the commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1~~[(d) or (e)]~~ of this title (relating to Minimum Standards for Fire Service Instructor Certification); and

(4) successfully pass the applicable commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification).

*§425.5. Minimum Standards for Fire Service Instructor II Certification.*

In order to ~~be~~ *[become]* certified as a Fire Service Instructor II, an individual must:

(1) hold as a prerequisite a Fire Instructor I certification as defined in §425.3 of this title (relating to Minimum Standards for Fire Service Instructor I Certification); and

(2) have a minimum of three years of experience as defined in §421.5 of this title (relating to Definitions) ~~[(as defined in §421.5(47) of this title (relating to Definitions))]~~ in fire protection in one or more or any combination of the following:

(A) a paid, volunteer, or regulated non-governmental fire department; or

(B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(3) possess valid documentation as a Fire Instructor I, II or III from either:

(A) the International Fire Service Accreditation Congress (IFSAC); or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2007 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1~~[(a)(2)]~~ of this title (relating to Requirement--General); or

(4) have completed the appropriate curriculum for Fire Service Instructor II contained in Chapter 8 of the commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1~~[(d) or (e)]~~ of this title (relating to Minimum Standards for Fire Service Instructor Certification); and

(5) successfully pass the applicable commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification).

*§425.7. Minimum Standards for Fire Service Instructor III Certification.*

In order to ~~be~~ *[become]* certified as a Fire Service Instructor III an individual must:

(1) hold as a prerequisite, a Fire Instructor II Certification as defined in §425.5 of this title (relating to Minimum Standards for Fire Service Instructor II Certification); and

(2) have a minimum of three years of experience as defined in §421.5 of this title (relating to Definitions) ~~[(as defined in §421.5(47) of this title (relating to Definitions))]~~ in fire protection in one or more or any combination of the following:

(A) a paid, volunteer, or regulated non-governmental fire department; or

(B) a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(3) possess valid documentation of accreditation from the International Fire Service Accreditation Congress (IFSAC) as a Fire Instructor III; or

(4) have completed the appropriate curriculum for Fire Service Instructor III contained in Chapter 8 of the commission's Certification Curriculum Manual, or meet the equivalence as specified in §425.1~~[(d) or (e)]~~ of this title (relating to Minimum Standards for Fire Service Instructor Certification); and

(5) successfully pass the applicable commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification); and either

(A) hold as a prerequisite an advanced structural fire protection personnel certification, an advanced aircraft fire protection personnel certification, advanced marine fire protection personnel certification, advanced inspector certification, advanced fire investigator, or advanced arson investigator certification; or

(B) have 60 college hours from a regionally accredited educational institution; or

(C) hold an associate's degree from a regionally accredited educational institution.

*§425.9. Minimum Standards for Master Fire Service Instructor III Certification.*

In order to be ~~[become]~~ certified as a Master Fire Service Instructor III the individual must:

(1) hold as a prerequisite a Fire Service Instructor III certification; and

(2) be a member of a paid, volunteer, or regulated non-governmental fire department; or a department of a state agency, education institution or political subdivision providing fire protection training and related responsibilities; and

(3) hold as a prerequisite a master structural fire protection personnel certification, a master aircraft rescue fire fighting personnel certification, master marine fire protection personnel certification, master inspector certification, master fire investigator certification, or master arson investigator certification; or

(4) hold a bachelor's ~~[bachelors]~~ degree or higher in education from a regionally accredited educational institution or a teaching certificate issued by the Texas State Board of Education.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Tim Rutland

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3812



## CHAPTER 429. FIRE INSPECTOR

The Texas Commission on Fire Protection (the commission) proposes new Chapter 429, Fire Inspector, concerning Subchapter A, Minimum Standards For Fire Inspector I Certification, §429.1, Minimum Standards for Fire Inspector I Personnel, §429.3, Minimum Standards for Fire Inspector I Certification, §429.5, International Fire Service Accreditation Congress (IFSAC) Seal; and Subchapter B, Minimum Standards For Fire Inspector II/Plan Examiner I Certification, §429.201, Minimum Standards for Fire Inspector II/Plan Examiner I Personnel, §429.203, Minimum Standards for Basic Fire Inspector II/Plan Examiner I Certification, §429.205, Minimum Standards for Intermediate Fire Inspector II/Plan Examiner I Certification, §429.207, Minimum Standards for Advanced Fire Inspector II/Plan Examiner I Certification, §429.209, Minimum Standards for Master Fire Inspector II/Plan Examiner I Certification, and §429.211, International Fire Service Accreditation Congress (IFSAC) Seal.

The purpose of the proposed new chapter is to establish new rule language that creates distinct certifications for Fire Inspector I and Fire Inspector II/Plan Examiner I that follows the guidelines set forth in the National Fire Protection standard applicable to Fire Inspector.

Tim Rutland, Executive Director, has determined that for each year of the first five year period the proposed new chapter is in effect, there will be no significant fiscal impact to state government or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed new sections are in effect, the public benefit from the passage is that the commission will now offer two separate certifications for Fire Inspector which has been requested by the fire service. There will be no effect on micro or small businesses or persons required to comply with the proposal.

Comments regarding the proposed new sections may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768 or e-mailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

### SUBCHAPTER A. MINIMUM STANDARDS FOR FIRE INSPECTOR I CERTIFICATION

#### 37 TAC §§429.1, 429.3, 429.5

The new chapter is proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; §419.032 which allows the commission to appoint fire protection personnel.

The proposed new chapter implements Texas Government Code, Chapter 419, §419.008 and §419.032.

#### §429.1. Minimum Standards for Fire Inspector I Personnel.

(a) Fire protection personnel of a governmental entity who are appointed to fire code enforcement duties at the Fire Inspector I level must be certified, as a minimum, as a Fire Inspector I as specified in §429.3 of this title (relating to Minimum Standards for Fire Inspector I Certification) within one year of initial appointment to such duties.

(b) Prior to being appointed to fire code enforcement duties at the Fire Inspector I level, all personnel must complete the applicable commission approved fire inspection training program and successfully pass the commission examination pertaining to that curriculum.

(c) Individuals holding any level of fire inspector certification will be required to comply with all applicable continuing education requirements in Chapter 441 of this title (relating to Continuing Education).

(d) Fire code enforcement is defined as the enforcement of laws, codes, and ordinances of the authority having jurisdiction pertaining to fire prevention.

(e) Personnel certified as Fire Inspector I may only engage in fire code enforcement duties that are commensurate with the job performance requirements listed for Fire Inspector I in the current edition of NFPA 1031: Standard for Professional Qualifications for Fire Inspector and Plan Examiner, or its successor.

#### §429.3. Minimum Standards for Fire Inspector I Certification.

In order to be certified as a Fire Inspector I, an individual must:

(1) possess valid documentation as an Inspector I from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1 of this title (relating to Requirements-General); or

(2) complete a commission approved Fire Inspector I training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Fire Inspector I training program shall consist of one of the following:

(A) completion of the commission approved Fire Inspector I Curriculum, as specified in the commission's Certification Curriculum Manual; or

(B) successful completion of an out-of-state, NFA, and/or military training program which has been submitted to the commission for evaluation and found to meet the minimum requirements in the commission approved Fire Inspector I Curriculum as specified in the commission's Certification Curriculum Manual; or

(C) documentation of the receipt of a Fire Inspector I certificate issued by the State Firemen's and Fire Marshals' Association of Texas that is deemed equivalent to a commission approved Fire Inspector I curriculum.

§429.5. International Fire Service Accreditation Congress (IFSAC) Seal.

Individuals who pass the state examination for Fire Inspector I may be granted an IFSAC seal for Inspector I by making application to the commission for the IFSAC seal and paying the applicable fee. In order to qualify for the IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Tim Rutland

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3812



## SUBCHAPTER B. MINIMUM STANDARDS FOR FIRE INSPECTOR II/PLAN EXAMINER I CERTIFICATION

### 37 TAC §§429.201, 429.203, 429.205, 429.207, 429.209, 429.211

The new chapter is proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; §419.032 which allows the commission to appoint fire protection personnel.

The proposed new chapter implements Texas Government Code, Chapter 419, §419.008 and §419.032.

§429.201. Minimum Standards for Fire Inspector II/Plan Examiner I Personnel.

(a) Fire protection personnel of a governmental entity who are appointed to fire code enforcement duties at the Fire Inspector II/Plan Examiner I level must be certified, as a minimum, as a Basic Fire Inspector II/Plan Examiner I as specified in §429.203 of this title (relating to Minimum Standards for Basic Fire Inspector II/Plan Examiner I Certification) within one year of initial appointment to such position.

(b) Prior to being appointed to fire code enforcement duties at the Fire Inspector II/Plan Examiner I level, all personnel must complete the applicable commission approved fire inspection training program and successfully pass the commission examination pertaining to that curriculum.

(c) Individuals holding any level of fire inspector certification shall be required to comply with all applicable continuing education requirements in Chapter 441 of this title (relating to Continuing Education).

(d) Fire code enforcement is defined as the enforcement of laws, codes, and ordinances of the authority having jurisdiction pertaining to fire prevention.

(e) Individuals who supervise others in the area of fire code enforcement, or manage fire code enforcement programs must be certified as Fire Inspector II/Plan Examiner I, or hold a Fire Inspector certification issued prior to September 1, 2017.

(f) Individuals wishing to satisfy the requirements for Head of a Prevention-Only Fire Department by holding a Fire Inspector certification must hold Fire Inspector II/Plan Examiner I certification, or hold a Fire Inspector certification issued prior to September 1, 2017.

§429.203. Minimum Standards for Basic Fire Inspector II/Plan Examiner I Certification.

In order to be certified as a Basic Fire Inspector II/Plan Examiner I, an individual must:

(1) possess valid documentation as an Inspector I, Inspector II, and Plan Examiner I from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2009 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1 of this title (relating to Requirements-General); or

(2) complete a commission approved Fire Inspector II/Plan Examiner I program and successfully pass the commission examination(s) as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved fire inspection training program shall consist of one or any combination of the following:

(A) completion of the commission approved Fire Inspector II/Plan Examiner I Curriculum, as specified in the commission's Certification Curriculum Manual; or

(B) successful completion of an out-of-state, NFA, and/or military training program which has been submitted to the commission for evaluation and found to meet the minimum requirements in the commission approved Fire Inspector II/Plan Examiner I Curriculum as specified in the commission's Certification Curriculum Manual; or

(C) successful completion of the following college courses:

- (i) Fire Protection Systems, three semester hours;
- (ii) Fire Prevention Codes and Inspections, three semester hours;
- (iii) Building Construction in the Fire Service or Building Codes and Construction, three semester hours;
- (iv) Hazardous Materials I, II, or III, three semester hours (total semester hours, 12).

(D) documentation of the receipt of Fire Inspector I, Fire Inspector II, and Plan Examiner I certificates issued by the State Firemen's and Fire Marshals' Association of Texas that are deemed equivalent to a commission approved Fire Inspector II/Plan Examiner I curriculum.

§429.205. Minimum Standards for Intermediate Fire Inspector II/Plan Examiner I Certification.

(a) Applicants for Intermediate Fire Inspector II/Plan Examiner I Certification must meet the following requirements:

(1) hold as a prerequisite Basic Fire Inspector II/Plan Examiner I Certification as defined in §429.203 of this title (relating to Minimum Standards for Basic Fire Inspector II/Plan Examiner I Certification); and

(2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section.)

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Inspector II/Plan Examiner I Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§429.207. Minimum Standards for Advanced Fire Inspector II/Plan Examiner I Certification.

(a) Applicants for Advanced Fire Inspector II/Plan Examiner I Certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Fire Inspector II/Plan Examiner I Certification as defined in §429.205 of this title (relating to Minimum Standards for Intermediate Fire Inspector II/Plan Examiner I Certification); and

(2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section.)

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Inspector II/Plan Examiner I Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§429.209. Minimum Standards for Master Fire Inspector II/Plan Examiner I Certification.

(a) Applicants for Master Fire Inspector II/Plan Examiner I Certification must complete the following requirements:

(1) hold as a prerequisite an Advanced Fire Inspector II/Plan Examiner I Certification as defined in §429.207 of this title (relating to Minimum Standards for Advanced Fire Inspector II/Plan Examiner I Certification); and

(2) acquire a minimum of 12 years of fire protection experience, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Fire Inspector Certification.

§429.211. International Fire Service Accreditation Congress (IF-SAC) Seal.

(a) Individuals who hold commission Fire Inspector certification issued prior to January 1, 2005, may apply to test for Plan Examiner I. Upon successful completion of the examination, an IFSAC seal for Plan Examiner I may be granted by making application to the commission for the IFSAC seal and paying the applicable fee.

(b) Individuals who pass the applicable section of the state examination may be granted IFSAC seal(s) for Inspector I, Inspector II, and/or Plan Examiner I by making application to the commission for the IFSAC seal(s) and paying the applicable fees, provided they meet the following provisions:

(1) To receive the IFSAC Inspector I seal, the individual must:

(A) complete the Inspector I section of a commission approved course; and

(B) pass the Inspector I section of a commission examination.

(2) To receive the IFSAC Inspector II seal, the individual must:

(A) complete the Inspector II section of a commission approved course;

(B) document possession of an IFSAC Inspector I seal; and

(C) pass the Inspector II section of a commission examination.

(3) To receive the IFSAC Plan Examiner I seal, the individual must:

(A) complete the Plan Examiner I section of a commission approved course; and

(B) pass the Plan Examiner I section of a commission examination.

(c) In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Tim Rutland

Executive Director

Texas Commission on Fire Protection

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## CHAPTER 429. MINIMUM STANDARDS FOR FIRE INSPECTOR CERTIFICATION

**37 TAC §§429.201, 429.203, 429.205, 429.207, 429.209, 429.211**

The Texas Commission on Fire Protection (the commission) proposes the repeal of Chapter 429, Minimum Standards For Fire Inspector Certification, concerning §429.201, Minimum Standards for Fire Inspector Personnel, §429.203, Minimum Standards for Basic Fire Inspector Certification, §429.205, Minimum Standards for Intermediate Fire Inspector Certification, §429.207, Minimum Standards for Advanced Fire Inspector Certification, §429.209, Minimum Standards for Master Fire Inspector Certification, and §429.211, International Fire Service Accreditation Congress (IFSAC) Seal.

The purpose of the proposed repeal is to establish a new Chapter 429, Fire Inspector, that creates distinct certifications for Fire Inspector I and Fire Inspector II/Plan Examiner I. The change follows the guidelines set forth in the National Fire Protection Association (NFPA) standard applicable to Fire Inspector. The new chapter will consist of Subchapter A, Minimum Standards For Fire Inspector I Certification, and Subchapter B, Minimum Standards For Fire Inspector II/Plan Examiner I Certification. Subchapter B will consist primarily of current rule language with some modifications.

Tim Rutland, Executive Director, has determined that for each year of the first five year period the proposed repeal is in effect, there will be no significant fiscal impact to state government or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed repeal is in effect, the public benefit from the passage is clear and concise rules that will offer two separate certifications for Fire Inspector which has been requested by constituents. There will be no effect on micro or small businesses or persons required to comply with the repeal as proposed.

Comments regarding the proposed repeal may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768 or e-mailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

The repeal is proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; §419.032 which allows the commission to appoint fire protection personnel.

The proposed repeal implements Texas Government Code, Chapter 419, §419.008 and §419.032.

*§429.201. Minimum Standards for Fire Inspector Personnel.*

*§429.203. Minimum Standards for Basic Fire Inspector Certification.*

*§429.205. Minimum Standards for Intermediate Fire Inspector Certification.*

*§429.207. Minimum Standards for Advanced Fire Inspector Certification.*

*§429.209. Minimum Standards for Master Fire Inspector Certification.*

*§429.211. International Fire Service Accreditation Congress (IFSAC) Seal.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Executive Director

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## CHAPTER 431. FIRE INVESTIGATION

The Texas Commission on Fire Protection (the commission) proposes amendments to Chapter 431, Fire Investigation, concerning, Subchapter A, Minimum Standards For Arson Investigator Certification, §431.3, Minimum Standards for Arson Investigation Personnel, and §431.11, Minimum Standards for Arson Investigator Certification for Law Enforcement Personnel; and Subchapter B, Minimum Standards for Fire Investigator Certification, concerning §431.201, Minimum Standards for Fire Investigation Personnel, §431.203, Minimum Standards for Fire



Investigator Certification, and §431.207, Minimum Standards for Advanced Fire Investigator Certification.

The purpose of the proposed amendments is to clarify requirements for a person to obtain an Arson Investigator or Fire Investigator certification.

Tim Rutland, Executive Director, has determined that for each year of the first five year period the proposed amendments are in effect, there will be no significant fiscal impact to state government or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit from the passage is that the commission will provide clarification and consistent rules regarding Arson or Fire Investigator certification. There will be no effect on micro or small businesses or persons required to comply with the amendments as proposed.

Comments regarding the proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768 or e-mailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

## SUBCHAPTER A. MINIMUM STANDARDS FOR ARSON INVESTIGATOR CERTIFICATION

### 37 TAC §431.3, §431.11

The amendments are proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; §419.032 which allows the commission to appoint fire protection personnel.

The proposed amendments implement Texas Government Code, Chapter 419, §419.008 and §419.032.

#### *§431.3. Minimum Standards for Basic Arson Investigator Certification.*

In order to be certified ~~[by the commission]~~ as a Basic Arson Investigator an individual must:

- (1) possess a current basic peace officer's license from the Texas Commission on Law Enforcement or documentation that the individual is a federal law enforcement officer;
- (2) hold a current license as a peace officer and notify the commission on the prescribed form regarding the law enforcement agency currently holding the individual's peace officer license; and
- (3) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as a Fire Investigator; or
- (4) complete a commission approved basic fire investigation training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved fire investigation training program shall consist of one of the following:

(A) completion of the commission approved Fire Investigator Curriculum, as specified in Chapter 5 of the commission's Certification Curriculum Manual;

(B) successful completion of an out-of-state, NFA, or military training program which has been submitted to the commission for evaluation and found to meet the minimum requirements as listed

in the commission approved Fire Investigator Curriculum as specified in Chapter 5 of the commission's Certification Curriculum Manual; or

(C) successful completion of the following college courses: Fire and Arson Investigation I or II, 3 semester hours; Hazardous Materials I, II, or III, 3 semester hours; Building Construction in the Fire Service or Building Codes and Construction, 3 semester hours; Fire Protection Systems, 3 semester hours. Total semester hours, 12.

#### *§431.11. Minimum Standards for Arson Investigator Certification for Law Enforcement Personnel.*

(a) A law enforcement officer employed or commissioned by a law enforcement agency as a peace officer who is designated as an arson investigator by an appropriate local authority is eligible for certification on a voluntary basis by complying with this chapter.

(b) An individual holding commission certification as a fire investigator who becomes a law enforcement officer employed or commissioned by a law enforcement agency as a peace officer, and who is designated as an arson investigator by an appropriate local authority will qualify for a similar level arson investigator certification. ~~[certificate.]~~ To obtain an arson investigator certification ~~[a printed certificate]~~ the individual must make application to the commission to include confirmation of commission.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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## SUBCHAPTER B. MINIMUM STANDARDS FOR FIRE INVESTIGATOR CERTIFICATION

### 37 TAC §§431.201, 431.203, 431.207

The amendments are proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; §419.032 which allows the commission to appoint fire protection personnel.

The proposed amendments implement Texas Government Code, Chapter 419, §419.008 and §419.032.

#### *§431.201. Minimum Standards for Fire Investigation Personnel.*

(a) Fire protection personnel who receive temporary or probationary appointment to fire investigation duties must be certified as a fire investigator by the Commission within one year of appointment to such duties.

(b) Prior to being appointed to fire investigation duties, personnel must:

(1) complete a commission approved basic fire investigator training program and successfully pass the commission examination pertaining to that curriculum; or

(2) hold current certification as structure fire protection personnel.

(c) Individuals holding a Fire Investigator certification shall be required to comply with the continuing education requirements in §441.15 of this title (relating to Continuing Education for Arson Investigator or Fire Investigator).

(d) Individuals certified under this subchapter shall limit their investigation to determining fire cause and origin. If evidence of a crime is discovered, custody and control of the investigation shall be immediately transferred to a certified arson investigator or licensed peace officer.

(e) Individuals who previously held arson investigator certification, who no longer hold a current commission as a peace officer, will qualify for certification as a fire investigator of similar level upon notice to the commission. To obtain a fire investigator certification [printed certificate] the individual will be required to make application to the commission.

*§431.203. Minimum Standards for Fire Investigator Certification.*

(a) In order to be certified [by the Commission] as a Fire Investigator an individual must complete the requirements specified in §431.3(a)(3) or (4) of this title (relating to Minimum Standards for Basic Arson Investigator Certification).

(b) A person who holds or is eligible to hold a certificate as a Fire Investigator may be certified as an Arson Investigator by meeting the requirements of Chapter 431, Subchapter A, but shall not be required to repeat the applicable examination requirements.

*§431.207. Minimum Standards for Advanced Fire Investigator Certification.*

(a) Applicants for Advanced Fire Investigator must complete the following requirements

(1) hold as a prerequisite an Intermediate Fire [fire] Investigator Certification as defined in §431.203 of this title (relating to Minimum Standards for Fire Investigator Certification); and

(2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:

(A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or

(B) Option 2--Completion of coursework from the either A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List and four B-List courses. (See the exception outlined in subsection (c) of this section); or

(C) Option 3--Completion of coursework from either the A-List the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses. (See the exception outlined in subsection (c) of this section).

(b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.

(c) The training required in this section must be in addition to any training used to qualify for any lower level of Fire Investigator

Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Tim Rutland

Executive Director

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## CHAPTER 443. CERTIFICATION CURRICULUM MANUAL

### 37 TAC §§443.1, 443.3, 443.5, 443.7, 443.9

The Texas Commission on Fire Protection (the commission) proposes amendments to Chapter 443, Certification Curriculum Manual, concerning, §443.1, Curriculum Approval by the Fire Fighter Advisory Committee, §443.3, Curriculum Approval by the Texas Commission on Fire Protection, §443.5, Effective Date of New Curricula or Changes to Curricula Required by Law or Rule, §443.7, Effective Date of New Curricula or Changes or Revisions to Existing Curricula Which Are Voluntary, and §443.9, National Fire Protection Association Standard.

The purpose of the proposed amendments is to reflect new procedures for curricula development for the commission's voluntary certifications.

Tim Rutland, Executive Director, has determined that for each year of the first five year period the proposed amendments are in effect, there will be no significant fiscal impact to state government or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit from the passage is that training facilities will be able to design curricula more closely suited to local needs, thus expediting the training and credentialing of personnel charged with protecting the public. Furthermore, agency committees will be able to devote more time to the development and maintenance of high quality tests, which will ultimately produce more highly qualified personnel serving the public need. There will be no effect on micro or small businesses or persons required to comply with the amendments as proposed.

Comments regarding the proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768 or emailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

The amendments are proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties, and §419.032, which allows the commission to appoint fire protection personnel.

The proposed amendments implement Texas Government Code, Chapter 419, §419.008 and §419.032.

*§443.1. [Curriculum] Approval by the Fire Fighter Advisory Committee.*

(a) All proposals for new or revised curricula and training programs ~~[curricula or changes to curricula for fire protection personnel]~~ must be submitted to the Fire Fighter Advisory Committee for approval.

(b) The Fire Fighter Advisory Committee may:

(1) submit proposals ~~[new curricula or changes to curricula]~~ to a subcommittee formed of members of the Fire Fighter Advisory Committee for study and review before approval; or

(2) submit proposals ~~[new curricula or changes to curricula]~~ to an advisory committee formed of members of the fire service who are recommended by the Fire Fighter Advisory Committee and appointed by the commission ~~[Commission]~~ to report to the Fire Fighter Advisory Committee, for study and review before approval.

(c) All proposals ~~[new curricula or changes to curricula]~~ approved by the Fire Fighter Advisory Committee shall be placed on the next scheduled meeting agenda of the Texas Commission on Fire Protection.

*§443.3. [Curriculum] Approval by the Texas Commission on Fire Protection.*

(a) All proposals for new or revised curricula and training programs ~~[curricula or changes to curricula]~~ approved by the Fire Fighter Advisory Committee must receive final approval by the Texas Commission on Fire Protection.

(b) Proposals ~~[Curricula]~~ not approved by the commission ~~[Commission]~~ shall be sent back to the committee ~~[Committee]~~ for further development. The commission ~~[Commission]~~ shall indicate to the committee ~~[Committee]~~ the reasons that the proposals were ~~[curriculum was]~~ not approved.

*§443.5. Effective Date of New or Revised [Curricula or Changes to] Curricula and Training Programs Required by Law or Rule.*

(a) New curricula and training programs will become effective on January 1 of the year following final approval by the commission or on the date specified by the commission.

(b) Changes to curricula and training programs will become effective on January 1 of the year following final approval by the commission or on the date specified by the commission.

(c) Changes to curricula and training programs which involve reference materials will become effective on January 1 of the year following final approval by the commission or on the date specified by the commission, as recommended by the Fire Fighter Advisory Committee, depending on the impact the change will have on the curricula or training programs.

(d) Changes to curricula and training programs that involve a safety consideration as determined by the Fire Fighter Advisory Committee shall become effective immediately following final approval by the commission.

*§443.7. Effective Date of New or Revised [Curricula or Changes or Revisions to Existing] Curricula and Training Programs Which Are Voluntary.*

(a) New curricula and training programs will become effective on the date recommended by the Fire Fighter Advisory Committee and specified by the commission ~~[Commission]~~.

(b) Changes to curricula and training programs will become effective on the date recommended by the Fire Fighter Advisory Committee and specified by the commission ~~[Commission]~~.

(c) Changes to curricula and training programs that involve a safety consideration as determined by the Fire Fighter Advisory Committee shall become effective immediately following final approval by the commission ~~[Commission]~~.

*§443.9. National Fire Protection Association Standard.*

(a) All curricula and training programs ~~[for fire protection personnel]~~ must, as a minimum, meet the standards, to include manipulative skills objectives and knowledge objectives, of the current NFPA standard pertaining to the discipline, if such a standard exists ~~[exist]~~ and subject to subsection (c) of this section.

(b) New curricula and training programs presented to the Fire Fighter Advisory Committee must, as a minimum, meet the standards of the current edition of the applicable NFPA standard for the discipline, if such a standard exists ~~[exist]~~.

(c) If a NFPA standard is adopted or an existing NFPA standard is revised, all curricula and training programs ~~[for fire protection personnel]~~ must meet the standards of the new or revised applicable NFPA standard within three years of the official adoption date of the applicable NFPA standard.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Tim Rutland

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3812



## CHAPTER 453. HAZARDOUS MATERIALS

The Texas Commission on Fire Protection (the commission) proposes amendments to Chapter 453, Hazardous Materials, concerning, Subchapter A, Minimum Standards For Hazardous Materials Technician, §453.3, Minimum Standards for Hazardous Materials Technician Certification, §453.5, Examination Requirements, and §453.7, International Fire Service Accreditation Congress (IFSAC) Seal; Subchapter B, Minimum Standards For Hazardous Materials Incident Commander, §453.203, Minimum Standards for Hazardous Materials Incident Commander, and §453.205, Examination Requirements.

The purpose of the proposed amendments is to reflect new procedures for curricula development for the commission's voluntary certifications.

Tim Rutland, Executive Director, has determined that for each year of the first five year period the proposed amendments are in effect, there will be no significant fiscal impact to state government or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit from the passage is that training facilities will be able to design curricula more closely suited to local needs, thus expediting the training and credentialing of personnel charged with protecting the public. Furthermore, agency committees will be able to devote more time to the development and maintenance of high quality tests, which will ultimately produce more highly

qualified personnel serving the public need. There will be no effect on micro or small businesses or persons required to comply with the amendments as proposed.

Comments regarding the proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768 or e-mailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

## SUBCHAPTER A. MINIMUM STANDARDS FOR HAZARDOUS MATERIALS TECHNICIAN

### 37 TAC §§453.3, 453.5, 453.7

The amendments are proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; §419.032 which allows the commission to appoint fire protection personnel.

The proposed amendments implement Texas Government Code, Chapter 419, §419.008 and §419.032.

#### §453.3. *Minimum Standards for Hazardous Materials Technician Certification.*

[(a)] In order to be certified as a Hazardous Materials Technician an individual must:

(1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and

(2) possess valid documentation as a Hazardous Materials Technician from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2008 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1[(a)(2)] of this title (relating to Requirements-General); or

(3) complete a commission approved Hazardous Materials Technician training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Hazardous Materials Technician program must consist of one of the following:

(A) completion of an in-state [a commission approved] Hazardous Materials Technician training program that meets the requirements of the applicable NFPA standard, is conducted by a commission certified training provider and approved through the commission's training prior approval system; or [Curriculum as specified in Chapter 6 of the commission's Certification Curriculum Manual; or]

(B) completion of an out-of-state and/or military training program that has been submitted to the commission for evaluation and found to meet or exceed [be equivalent to; or exceeds] the NFPA standard for [commission approved] Hazardous Materials Technician [Curriculum].

[(b)] Out-of-state or military training programs which are submitted to the commission for the purpose of determining equivalency will be considered equivalent if all competencies set forth in Chapter 6 (pertaining to Hazardous Materials Technician) of the commission's Certification Curriculum Manual are met.}

#### §453.5. *Examination Requirements.*

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive a Hazardous Materials Technician Certification.

(b) Individuals will be permitted to take the commission examination for Hazardous Materials Technician by documenting completion of the NFPA 472 Awareness and Operations level training and completing a commission approved Hazardous Materials Technician training program. [curriculum.]

#### §453.7. *International Fire Service Accreditation Congress (IFSAC) Seal.*

Individuals completing a commission approved Hazardous Materials Technician training program, documenting an IFSAC seal for Hazardous Materials Awareness Level Personnel; and

(1) Hazardous Materials Operations Level Responders, including the Mission-Specific Competencies for Personal Protective Equipment and Product Control under the current edition; or

(2) NFPA 472 Hazardous Materials Operations prior to the 2008 edition; and

(3) upon passing the applicable state examination, may be granted an IFSAC seal as a Hazardous Materials Technician by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Tim Rutland

Executive Director

Texas Commission on Fire Protection

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For further information, please call: (512) 936-3812



## SUBCHAPTER B. MINIMUM STANDARDS FOR HAZARDOUS MATERIALS INCIDENT COMMANDER

### 37 TAC §453.203, §453.205

The amendments are proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; §419.032 which allows the commission to appoint fire protection personnel.

The proposed amendments implement Texas Government Code, Chapter 419, §419.008 and §419.032.

#### §453.203. *Minimum Standards for Hazardous Materials Incident Commander.*

[(a)] In order to be certified as Hazardous Materials Incident Commander an individual must:

(1) hold certification as Structural Fire Protection Personnel, Aircraft Rescue Fire Fighting Personnel, or Marine Fire Protection Personnel; and

(2) possess valid documentation as a Hazardous Materials Incident Commander from either:

(A) the International Fire Service Accreditation Congress; or

(B) the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2008 or later edition of the NFPA standard applicable to this discipline and meeting the requirements as specified in §439.1[(a)(2)] of this title (relating to Requirements-General); or

(3) complete a commission approved Hazardous Materials Incident Commander training program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Hazardous Materials Incident Commander program must consist of one of the following:

(A) completion of an in-state [a ~~commission approved~~ Hazardous Materials Incident Commander training program that meets the requirements of the applicable NFPA standard, is conducted by a commission certified training provider and approved through the commission's training prior approval system; or [~~curriculum as specified in Chapter 6 of the commission's Certification Curriculum Manual~~; or]

(B) completion of an out-of-state and/or military training program that has been submitted to the commission for evaluation and found to meet or exceed [~~be equivalent to, or exceeds~~] the NFPA standard for [~~commission approved~~] Hazardous Materials Incident Commander [~~curriculum~~].

[(4) Special temporary provision: Through February 2015, an individual is eligible for Hazardous Materials Incident Commander certification upon documentation of the National Board on Fire Service Professional Qualifications issued by the Texas A&M Engineering Extension Service using the 2008 edition of the NFPA standard applicable to this discipline.]

[(b) Out-of-state or military training programs which are submitted to the commission for the purpose of determining equivalency will be considered equivalent if all competencies set forth in Chapter 6 (pertaining to Hazardous Materials Incident Commander) of the commission's Certification Curriculum Manual are met.]

*§453.205. Examination Requirements.*

(a) Examination requirements of Chapter 439 of this title (relating to Examinations for Certification) must be met in order to receive a Hazardous Materials Incident Commander certification.

(b) Individuals will be permitted to take the commission examination for Hazardous Materials Incident Commander by documenting completion of NFPA 472 Awareness and Operations level training and completing a commission approved Hazardous Materials Incident Commander training program.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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## CHAPTER 455. MINIMUM STANDARDS FOR WILDLAND FIRE PROTECTION CERTIFICATION

### 37 TAC §455.3

The Texas Commission on Fire Protection (the commission) proposes amendments to Chapter 455, Minimum Standards For Wildland Fire Protection Certification, concerning §455.3, Minimum Standards for Basic Wildland Fire Protection Certification.

The purpose of the proposed amendments is to reflect new procedures for curricula development for the commission's voluntary certifications.

Tim Rutland, Executive Director, has determined that for each year of the first five year period the proposed amendments are in effect, there will be no significant fiscal impact to state government or local governments.

Mr. Rutland has also determined that for each year of the first five years the proposed amendments are in effect, the public benefit from the passage is that training facilities will be able to design curricula more closely suited to local needs, thus expediting the training and credentialing of personnel charged with protecting the public. Furthermore, agency committees will be able to devote more time to the development and maintenance of high quality tests, which will ultimately produce more highly qualified personnel serving the public need. There will be no effect on micro or small businesses or persons required to comply with the amendments as proposed.

Comments regarding the proposed amendments may be submitted, in writing, within 30 days following the publication of this notice in the *Texas Register* to Tim Rutland, Executive Director, Texas Commission on Fire Protection, P. O. Box 2286, Austin, Texas 78768 or e-mailed to [info@tcfp.texas.gov](mailto:info@tcfp.texas.gov). Comments will be reviewed and discussed at a future commission meeting.

The amendments are proposed under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to propose rules for the administration of its powers and duties; §419.032 which allows the commission to appoint fire protection personnel.

The proposed amendments implement Texas Government Code, Chapter 419, §419.008 and §419.032.

### *§455.3. Minimum Standards for Basic Wildland Fire Protection Certification.*

In order to be certified as Basic Wildland Fire Protection personnel, an individual must:

(1) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as Wildland Fire Fighter Level I; or

(2) complete a commission approved Basic Wildland Fire Protection program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved Basic Wildland Fire Protection training program shall consist of one of the following:

(A) completion of the commission approved Basic Wildland Fire Fighter training program [~~Curriculum~~], as specified in the applicable chapter of the commission's Certification Curriculum Manual; or

(B) completion of the following National Wildfire Coordinating Group (NWCG) courses:

- (i) S-130: Firefighter Training
- (ii) S-190: Introduction to Wildland Fire Behavior
- (iii) L-180: Human Factors on the Fireline
- (iv) I-100: Introduction to the Incident Command

System, or an equivalent basic incident command system course such as NIMS IS-100.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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